

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EMIGRANT BANK AND PACIFIC
MERCANTILE BANK,

Plaintiffs,

v.

SUNTRUST BANK; TRUIST BANK; AND
DOES 1 THROUGH 10 INCLUSIVE,

Defendants.

Civil Action No. 1:20-cv-02391-PGG

**DECLARATION OF KENNETH B. FOWLER IN SUPPORT OF
SUNTRUST BANK AND TRUIST BANK'S MOTION TO DISMISS**

KENNETH B. FOWLER hereby declares:

1. I am a member in good standing of the Bar of the State of New York and the State of Georgia, and I have been admitted to practice before this Court *pro hac vice*. I am a senior associate at the law firm of King & Spalding LLP and am counsel to Defendants SunTrust Bank and Truist Bank (collectively, "SunTrust") in the above-captioned action. I submit this Declaration in support of SunTrust's Motion to Dismiss (the "Motion") and to put before the Court certain documents that are relevant to the Motion.

2. A true and correct copy of the letter from SunTrust's counsel to Plaintiffs' counsel dated January 3, 2020, is appended hereto as Attachment A.

3. A true and correct copy of the Suggestion of Bankruptcy, publicly filed in *SunTrust Bank v. Calrissian LP*, Index No. 654148/2016, NYSCEF Doc. No. 19 (N.Y. Sup. Ct., N.Y. Cty. Feb. 27. 2017), is appended hereto as Attachment B.

4. A true and correct copy of the Order Reopening Case, publicly filed in

SunTrust Bank v. Calrissian LP, Index No. 654148/2016, NYSCEF Doc. No. 21 (N.Y. Sup. Ct., N.Y. Cty. Jan. 14, 2020), is appended hereto as Attachment C.

5. A true and correct copy of SunTrust's Memorandum of Law in Support of Plaintiff's Motion for Leave to Amend the Complaint, publicly filed in *SunTrust Bank v. Calrissian LP*, Index No. 654148/2016, NYSCEF Doc. No. 28 (N.Y. Sup. Ct., N.Y. Cty. June 24, 2020), appended hereto as Attachment D.

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed in East Rockaway, New York, on August 28, 2020.


Kenneth B. Fowler